



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/597,159

01/09/2007

Ewald Schmon

7400-X06-152

6916

27317 7590 12/30/2009  
Fleit Gibbons Gutman Bongini & Bianco PL  
21355 EAST DIXIE HIGHWAY  
SUITE 115  
MIAMI, FL 33180

EXAMINER

HOGAN, JAMES SEAN

ART UNIT

PAPER NUMBER

3752

MAIL DATE

DELIVERY MODE

12/30/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/597,159	<b>Applicant(s)</b> SCHMON ET AL.	
	<b>Examiner</b> JAMES S. HOGAN	<b>Art Unit</b> 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-12 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-12 have been fully considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent No. 6,712,292 to Gosis et al in view of U.S. Patent No. 6,820,824 to Joseph et al.
2. Gosis et al teaches all the limitations of the claims (a flow reservoir for a paint spray gun (2) with a bowl-shaped container (12), a cover (58) that can be set on the container, and an attachment part (at (70)) for direct fastening of the flow reservoir onto the paint spray gun) except for the attachment part being a screw-wedge element for direct quick-connect attachment. However, Joseph et al discloses a screw-wedge element (21)) provided to be used the inverted side of a container, the cover being on the "top" side. Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Gosis et al with a screw-wedge element as suggested by Joseph et al. Doing so would provide a quick-connect for a container pertaining to

Art Unit: 3752

an accommodating spray gun and because (a) the Gosis et al reference and the Joseph et al reference are *known work in one of field of endeavor*, (b) such modification is merely the use of known technique to improve a similar device by Applicant and (c) such modification, i.e. choosing from a finite number of predictable solutions, is not of innovation but of ordinary skill and common sense. *KSR, International Co. v. Teleflex Inc.*, 550 U.S. (2007). It should be noted that the element of Joseph et al is not an integral piece, but rather an adapter that can accommodate existing spray guns. Still, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have formed the adapted onto any one paint cup lid, since it has been held that forming in once piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. See *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

3. Further, it should be noted, for the basis of claims 2-9 as explained below, the quick-connecting part of the neck of the container of Joseph et al would be interchangeable for the thread-type connection of the cover of Gosis et al is since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art See *In re Einstein*, 8 USPQ 167

4. As per claims 2 and 3 the screw-wedge element (10) of Joseph et al is formed by a groove (at (22)) with a screw surface (at (23)) extending diagonally in the circumferential direction, and other threads (See Figure 4).

5. As per claim 4, the connector (21) of Joseph et al has a lateral contact surface (not numbered) for limiting the screw-in depth when the screw-wedge element is used

Art Unit: 3752

for attaching a flow reservoir, and an un-numbered end contact surface for limiting the screw in depth of its reservoir.

6. As per claim 6, a shoulder of sorts is shown by Joseph et al in Figure 4, (at (22)) in the interior of the connector.

7. As per claim 7, the cover of Gosis et al and the container can be tightly connected to each other by locking threads (60, 56) as shown in Figure 1.

8. As per claims 8 and 9, it is not known if the threads as depicted by Gosis et al are of the type that are four-part steep, but it is shown that the external threads are on the container, and the internal threads are on the cover. Given that four-part steep threading is an industry standard, or are part of the Applicant being his own lexicographer, it can be surmised that creating a threading of a desired steep and/ or slope of 20mm is obvious to one having ordinary skill in the art at the time the invention was made, since it has been held that discovering a result effective variable (i.e. the design of the thread, threads being common in their own existence) involves only routine skill in the art. See *In re Boesch*, 617 F.2d 272, 205 USOPQ 215 (CCPA 1980).

9. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent No. 6,712,292 to Gosis et al in view of U.S. Patent No. 6,820,824 to Joseph et al and further in view of International Application Publication WO 2004/037433 A1 to Joseph et al

10. As per claims 10 and 11, Gosis et al in view of Joseph et al ('824) teaches all the limitations of the claims except for the wedge-shaped sealing ridge formed on the underside of the cover. However, Joseph et al ('433) discloses (see Figure 3) wedge-

Art Unit: 3752

shaped sealing element (13) provided on the inverted side of a container, the container being sealed within a groove formed by the deal and the cover's edge, the seal presumably tall enough in its depiction to catch paint in the cover when the cover is removed. Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Gosis et al as taught by Joseph et al ('824) with a wedge sealing element as suggested by Joseph et al ('433). Doing so would provide a seal for a container pertaining to an accommodating spray gun and because (a) the Gosis et al, Joseph et al (('824) and ('433)) references are *known work in one of field of endeavor*, (b) such modification is merely the use of known technique to improve a similar device by Applicant and (c) such modification, i.e. choosing from a finite number of predictable solutions, is not of innovation but of ordinary skill and common sense. *KSR, International Co. v. Teleflex Inc., 550 U.S. (2007)*.

11. As per claim 11, the use of "inserts" in paint containers as taught by the Gosis et al, Schmon et al and Joseph et al can be perceived to be disposable liners, which are notoriously well known in the art and their use is not deemed to be patentable as it would be obvious to one of ordinary skill to use a liner if so desired.

### ***Allowable Subject Matter***

2. Claims 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

Art Unit: 3752

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES S. HOGAN whose telephone number is (571)272-4902. The examiner can normally be reached on Mon-Fri, 6:00a-3:00p EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571)272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. S. H./  
Examiner, Art Unit 3752

/Len Tran/  
Supervisory Patent Examiner, Art Unit 3752